

AMENDED IN ASSEMBLY JUNE 30, 2003

SENATE BILL

No. 1076

**Introduced by Committee on Health and Human Services
(Senators Ortiz (Chair), Aanestad, Alarcon, Chesbro, Escutia,
Figueroa, Florez, Kuehl, Romero, Vasconcellos, and Vincent)**

March 27, 2003

An act to amend ~~Section~~ Sections 444.20, 444.22, 444.24, and 1771.7 of the Health and Safety Code, relating to ~~care facilities~~ consumer assistance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, as amended, Committee on Health and Human Services. ~~Continuing~~ Health care consumer assistance programs: continuing care retirement communities: resident satisfaction surveys.

~~Existing~~

(1) Existing law, until December 31, 2003, provides that all communications between a representative of the Health Rights Hotline and specified individuals, seeking assistance regarding a grievance or complaint, if reasonably related to the requirements of the representative's responsibilities for the program, and made in good faith, shall be confidential, as specified.

Existing law prohibits a discriminatory, disciplinary, or retaliatory action to be taken against any health facility, health care service plan, provider, or an employee thereof, or other specified individuals, if the Health Rights Hotline or a program of the Health Consumer Alliance, a partnership of independent, nonprofit legal services agencies, regarding a grievance or complaint and is intended to assist the program in carrying out its duties and responsibilities, unless the action was done maliciously or without good faith.

Existing law also makes certain findings concerning the Health Consumer Alliance as well as the Health Rights Hotline.

This bill would make clarifying and conforming changes to these findings.

This bill would instead provide that these provisions shall be repealed on January 1, 2011.

(2) Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the residents' life or a term in excess of one year.

Existing law imposes various requirements on continuing care providers including requirements that the provider permit the formation of a resident association by interested residents who may elect a governing body, and that the provider establish policies and procedures that promote the sharing of information, dialogue between residents and management, and access to the provider's governing body. Existing law further requires a continuing care provider to biannually conduct a resident satisfaction survey that would be made available to the resident association, its governing body, or to a committee of residents, and that would be posted in a conspicuous location at each facility.

This bill would require a continuing care provider to conduct this survey biennially, rather than biannually.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 444.20 of the Health and Safety Code is*
2 *amended to read:*

3 444.20. The Legislature finds and declares all of the
4 following:

5 (a) The health care delivery system continues to undergo rapid
6 and dramatic change. Health care services are provided by a
7 variety of managed care structures, including health maintenance
8 organizations (HMOs), preferred provider organizations (PPOs),
9 and an array of hybrid models that have elements of traditional
10 fee-for-service and indemnity systems while applying managed
11 care's utilization management, gatekeeper, and case management
12 techniques. As a result of these changes, many consumers are



1 confused about how managed care works or have problems
2 navigating the health care system.

3 ~~(b) The duties of the newly established Office of Patient~~
4 ~~Advocate within the Department of Managed Care include~~
5 ~~coordinating and working with other governmental and~~
6 ~~nongovernmental patient assistance programs and health care~~
7 ~~ombudsprograms.~~

8 ~~(c) The Center for Health Care Rights, an independent~~
9 ~~nonprofit consumer organization, has established the~~ *The Health*
10 *Rights Hotline (HRH) is established* in the Sacramento area to help
11 all health care consumers. The program's goals are to provide an
12 independent source of information and help for health care
13 consumers, to collect needed information regarding health care
14 consumers' problems, and to advocate for ~~the improvement of the~~
15 health care system *improvements* for all consumers. The program
16 is independent from, but works in close collaboration with, health
17 plans, providers, purchasers, insurance agents and brokers,
18 consumer groups, and regulators. The program also works with the
19 local Health Insurance Counseling and Advocacy Program, which
20 serves Medicare beneficiaries in target communities.

21 ~~(d)~~

22 *(c)* The program educates consumers about their health care
23 rights and responsibilities. It also assists consumers with questions
24 about their health plans and with specific problems through hotline
25 and in-person services. In addition, the program collects and
26 analyzes information, generated both by consumers' use of the
27 program and from other sources, that can identify the strengths and
28 weaknesses of particular plans, provider groups, and delivery
29 systems. The program has ~~the potential of informing~~ *informed*
30 health plans, providers, purchasers, consumers, regulators, and the
31 Legislature about how independent support can be provided to
32 consumers in managed care.

33 ~~(e)~~

34 *(d)* Maintaining consumer confidence is a paramount concern
35 in the operation of the program. While one vehicle to protect these
36 communications would be to establish attorney-client
37 relationships with consumers served, the program is generally not
38 designed as a "legal" program and it would undercut its
39 collaborative strategy and ~~problemsolving~~ *problem-solving*
40 orientation if assistance were required to be positioned in a legal

1 context. Furthermore, it is critical that consumers using the
2 program are free from any retribution.

3 ~~(f)~~

4 (e) The Health Consumer Alliance (HCA), a partnership of
5 independent, nonprofit legal services agencies, includes ~~six~~ seven
6 local health consumer assistance programs in the Counties of
7 Alameda, Fresno, Los Angeles, Orange, San Diego, San
8 Francisco, and San Mateo. These ~~six~~ seven Health Consumer
9 Centers help low-income consumers receive necessary health care
10 through education, training, and advocacy, and analysis of
11 systemic health access issues.

12 ~~(g)~~

13 (f) The Health Insurance Counseling and Advocacy Programs
14 (HICAPS), a network of community-based programs throughout
15 the State of California, assist California consumers statewide who
16 are 60 years of age or older, or who are Medicare beneficiaries
17 regardless of age. These programs provide objective education,
18 information, counseling, and assistance regarding Medicare,
19 managed *health* care, health and long-term care related life and
20 disability insurance, and related health care coverage plans.

21 *SEC. 2. Section 444.22 of the Health and Safety Code is*
22 *amended to read:*

23 444.22. (a) The Legislature recognizes that the Health Rights
24 Hotline, serving the greater Sacramento area, and the ~~local~~ Health
25 Consumer Alliance (HCA) programs serving the Counties of
26 Alameda, Fresno, Los Angeles, Orange, San Diego, San
27 Francisco, and San Mateo, provide needed education and
28 assistance to individual consumers and provide the public with
29 critical information about the health care system and how
30 consumers can best be assisted. While most of their financial
31 support is from private sources, the programs serve an important
32 public interest, as do the HICAPS which statewide serve
33 California Medicare beneficiaries and Californians 60 years of age
34 or older.

35 (b) No discriminatory, disciplinary, or retaliatory action shall
36 be taken against any health facility, health care service plan,
37 provider, or an employee thereof, or any subscriber, enrollee, or
38 agent of the subscriber or enrollee, or any other recipient of health
39 care services or individual assisting the recipient of health care
40 services, if the communication is made to a program described in

subdivision (a) regarding a grievance or complaint and is intended to assist the program in carrying out its duties and responsibilities, unless the action was done maliciously or without good faith. This subdivision is not intended to allow for the unapproved release of confidential or proprietary information by an employee or contractor, or to otherwise infringe on the rights of an employer to supervise, discipline, or terminate an employee for other reasons.

SEC. 3. Section 444.24 of the Health and Safety Code is amended to read:

444.24. This part shall remain in effect only until ~~December 31, 2003~~ January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before ~~December 31, 2003~~ January 1, 2011, deletes or extends that date. Notwithstanding this date of repeal, the privileges and protections provided under this part shall continue to apply to any actions taken or materials collected after ~~December 31, 2003~~ January 1, 2011, if they relate to communications or actions made on or before ~~December 31, 2003~~ January 1, 2011.

SEC. 4. Section 1771.7 of the Health and Safety Code is amended to read:

1771.7. (a) No resident of any continuing care retirement community shall be deprived of any civil or legal right, benefit, or privilege guaranteed by law, by the California Constitution, or by the United States Constitution solely by reason of status as a resident of a community. In addition, because of the discretely different character of residential living unit programs that are a part of continuing care retirement communities, this section shall augment Chapter 3.9 (commencing with Section 1599), Section 73523 of Title 22 of the California Code of Regulations, and applicable federal law and regulations.

(b) All residents in residential living units shall have all of the following rights:

(1) To live in an attractive, safe, and well maintained physical environment.

(2) To live in an environment that enhances personal dignity, maintains independence, and encourages self-determination.

(3) To participate in activities that meet individual physical, intellectual, social, and spiritual needs.

1 (4) To expect effective channels of communication between
2 residents and staff, and between residents and the administration
3 or provider's governing body.

4 (5) To receive a clear and complete written contract that
5 establishes the mutual rights and obligations of the resident and the
6 continuing care retirement community.

7 (6) To maintain and establish ties to the local community.

8 (7) To organize and participate freely in the operation of
9 resident associations.

10 (c) A continuing care retirement community shall maintain an
11 environment that enhances the residents' self-determination and
12 independence. The provider shall do both of the following:

13 (1) Permit the formation of a resident association by interested
14 residents who may elect a governing body. The provider shall
15 provide space and post notices for meetings, and provide
16 assistance in attending meetings for those residents who request it.
17 In order to permit a free exchange of ideas, at least part of each
18 meeting shall be conducted without the presence of any continuing
19 care retirement community personnel. The association may,
20 among other things, make recommendations to management
21 regarding resident issues that impact the residents' quality of life.
22 Meetings shall be open to all residents to attend as well as to
23 present issues. Executive sessions of the governing body shall be
24 attended only by the governing body.

25 (2) Establish policies and procedures that promote the sharing
26 of information, dialogue between residents and management, and
27 access to the provider's governing body. The provider shall
28 biennially conduct a resident satisfaction survey that shall be made
29 available to the resident association or its governing body, or, if
30 neither exists, to a committee of residents at least 14 days prior to
31 the next semiannual meeting of residents and the governing board
32 of the provider required by subdivision (c) of Section 1771.8. A
33 copy of the survey shall be posted in a conspicuous location at each
34 facility.

35 (d) In addition to any statutory or regulatory bill of rights
36 required to be provided to residents of residential care facilities for
37 the elderly or skilled nursing facilities, the provider shall provide
38 a copy of the bill of rights prescribed by this section to each
39 resident at or before the resident's admission to the community.



1 (e) The department may, upon receiving a complaint of a
2 violation of this section, request a copy of the policies and
3 procedures along with documentation on the conduct and findings
4 of any self-evaluations and consult with the Continuing Care
5 Advisory Committee for determination of compliance.

6 (f) Failure to comply with this section shall be grounds for
7 ~~suspension, condition~~ *the imposition of conditions on, suspension*
8 *of*, or revocation of the provisional certificate of authority or
9 certificate of authority pursuant to Section 1793.21.

